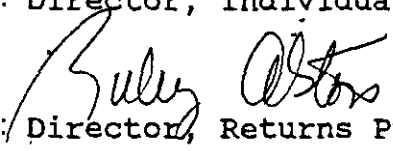


Internal Revenue Service
memorandum

date: OCT 19 1990

to: Director, Individual Tax Division CC:IND

from:  Director, Returns Processing and Accounting Division R:R:T

subject: Interest-Free Adjustments for Combined Annual Wage Reporting
(CAWR) Discrepancy Cases

We requested technical advice (copy attached) concerning the circumstances under which it is appropriate to treat adjustments of tax that result from CAWR reconciliation as interest-free adjustments under section 6205 of the Internal Revenue Code. We do not believe your response (copy attached) answered our specific question.

You have previously informed us that corrections to the CAWR assessments cannot be made as an interest-free adjustment. However, is the [original CAWR assessment] subject to interest? This is the question we need answered. There continues to be disagreement among Service employees in the field on this issue.

We would appreciate a response by November 30, 1990. If there are any questions concerning this matter, a member of your staff should contact Theresa Peppell or Larry Douglas at 566-4861.

Attachments
as stated

08687

OCT 23 1987

Director, Individual Tax Division CC:IND

for Director, Returns Processing and Accounting Division TR:R

Richard T. Warr

Interest-Free Adjustments for CAWR Discrepancy Cases

We request technical advice concerning the circumstances under which it is appropriate to treat adjustments of tax that result from Combined Annual Wage Reporting (CAWR) reconciliation as interest-free adjustments under section 6205 of the Internal Revenue Code.

Under CAWR reconciliation, the Service compares amounts of wages, social security tax, income tax withholding, etc., employers report to the Social Security Administration usually via Form W-2 with the amounts the employers report to the Service usually via Form 941. If discrepancies are revealed between amounts reported to the two agencies, the Service attempts to reconcile the discrepancies. Often, when the discrepancies cannot be resolved, the Service assesses the employer additional tax.

We need to know when these assessments can be treated as interest-free adjustments. To qualify for interest-free adjustment, must the employer submit a Form 941c, Statement to Correct Information Previously Reported on the Employer's Federal Tax Return, with an ascertained date? Would the employer's signature on any document agreeing to the proposed deficiency meet the requirements of IRM 4641.1(4), Employment Tax Procedures Manual? There is disagreement among Service employees in the field on this issue.

We would appreciate a response by November 27, 1987. If there are any questions concerning this matter, your staff can contact Ron Gamble or Carolyn Dalla of my staff at 566-6292.

TR:R/T/Gamble;VRA/566-6292/10-16-87
CAWR Discrepancy Cases

Internal Revenue Service
memorandum

CC:IND:Br1
CPFrenchy

date:

MAR 16 1988

to: Director, Returns Processing and Accounting Division TR:R

from: Director, Individual Tax Division CC:IND

subject: Interest Free Adjustments for CAWR Discrepancy Cases

This is in reply to your memorandum dated October 23, 1987, concerning the circumstances under which it is appropriate to treat adjustments of tax that result from the Combined Annual Wages Reporting (CAWR) reconciliation as interest free adjustments under section 6205 of the Internal Revenue Code.

Under the CAWR reconciliation, the Service compares amounts of wages, social security tax, income tax withholding, etc., employers report to the Social Security Administration usually via Form W-2 with the amounts the employers report to the Service usually via Form 941. If discrepancies are revealed between amounts reported to the two agencies, the Service attempts to reconcile the discrepancies by correspondence with the employer pursuant to IRM 30(153)4 of the CAWR Reconciliation Manual. If the discrepancies cannot be resolved, the Service assesses the employer additional tax.

You request advice as to when these assessments can be treated as interest free adjustments. You ask if the employer must submit a Form 941c, Statement to Correct Information Previously Reported on the Employer's Federal Tax Return, with an ascertained date, or would the employer's signature on any document agreeing to the proposed deficiency meet the requirements of IRM 4641.1(4), Employment Tax Procedures Manual? You point out that there is disagreement among Service employees in the field on this issue.

Section 6205(a) of the Code provides that if less than the correct amount of employee FICA tax (section 3101), employer FICA tax (section 3111), or withholding tax (section 3402) is paid with respect to any payment of wages or compensation, proper adjustments of both the tax and amount deducted shall be made, without interest, as prescribed by regulations.

Section 31.6205-1(a) of the Employment Tax Regulations provides that an employer who makes, or has made, an undercollection or underpayment of FICA tax, RRTA tax, and income tax required to be withheld shall correct such error as provided in this section and such correction shall constitute an adjustment without interest to the extent provided in paragraphs (b) or (c) of section 31.6205-1.

Interest-Free Adjustments
for CAWR Discrepancy Cases

Section 31.6205-1(a)(4) of the regulations provides that for purposes of section 6205, an error is ascertained when the employer has sufficient knowledge of the error to be able to correct it.

Section 31.6205-1(b)(2)(i) of the regulations provides that an interest free adjustment of FICA and/or RRTA taxes may be made by an employer by reporting the amount due as an adjustment on the timely filed return for the period in which the error is ascertained or by filing a supplemental return for the period in which payment of the wages or compensation was made. To constitute an interest free adjustment, the supplemental return must be filed on or before the last day on which the return is required to be filed for the period in which the error is ascertained.

Section 31.6205-1(c)(2)(i) of the regulations provides that an interest free adjustment of income tax required to be withheld by an employer can be made by reporting the additional amount due as an adjustment on a return for any quarter in the calendar year in which the wages were paid, or by reporting the amount due on a supplemental return for the return period in which the wages were paid, but only if such return or supplemental return reporting the underpayment is filed on or before the last day on which the return is required to be filed for the return period in which the error was ascertained.

Section 31.6205-1(a)(3)(ii) of the regulations provides, in part, that any amount reported as an adjustment should be paid to the district director, without interest at the time fixed for reporting the adjustment.

Rev. Rul. 75-464, 1975-2 C.B. 474, sets forth five situations illustrating when an error is ascertained for returns under audit by the Service. An error is ascertained when Form 2504 is signed either at the examination level or the appeals level, when the taxpayer pays the full amount due so as to file a refund claim (if paid prior to a notice and demand), or at the conclusion of in-Service appeal rights if no agreement is reached. It also states that Form 2504 is considered to stand in lieu of a supplemental return.

IRM 4641.1(4) of the Employment Tax Procedures Manual provides that the signing of Form 2504 at the close of an examination or the appeals conference is considered fulfilling the supplemental return requirements for the interest free adjustment purposes of section 6205 of the Code.

Interest-Free Adjustments
for CAWR Discrepancy Cases

Based on the above cited Code, regulations, Revenue Ruling, and manual provisions, it is our opinion that once the Service assesses the employer additional tax as a result of the unresolved discrepancies under the CAWR reconciliation program, no correction of such tax can be made as an interest free adjustment by the filing of a Form 941(c) with an ascertained date or the signing of a Form 2504 agreeing to the proposed deficiency under the provisions of IRM 4641.1(4).


MARIO E. LOMBARDO